

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-43 are again rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The instant claims are directed to simulation methods for manipulating data, which can be performed by hand or a programmed computer.

Although the applicant's amendment ties the claims to a particular machine or apparatus, in this case a computer system, the recited computer system involves insignificant extra-solution activity and does not impose meaningful limitations to the scope of the claims. Furthermore, no transformation of subject matter occurs in the recited method steps.

Rather, the claimed invention is directed to computer simulation methods for inputting target data into a computer system, determining model/simulated optical surface, comparing the target data to the model/simulated data, and adjusting set of refractive surgery system parameters. All of the recited method steps take place in the computer system. Absent from the claims is/are step/steps of applying the adjusted refractive data to any material for a particular application, or for transforming a material to a different state.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ahmed M. Farah whose telephone number is (571) 272-4765. The examiner can normally be reached on Mon, Tue, Thur and Fri between 9:30 AM 7:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johnson Henry can be reached on (571) 272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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/Ahmed M Farah/  
Primary Examiner, Art Unit 3769

March 18, 2010.